

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maryann Wong	Team: Team # 2	CCRB Case #: 201007937	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/04/2010 6:50 PM, Saturday, 06/05/2010	Location of Incident: Narrows Road and Neckar Avenue	Precinct: 120	18 Mo. SOL 12/4/2011	EO SOL 12/4/2011	
Date/Time CV Reported Fri, 06/11/2010 1:12 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/11/2010 1:12 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. DT3 David Luppino	04762	906674	NARCBSI
3. SGT Andrew Hillery	01031	925457	NARCBSI
4. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 John Brooks	06877	915057	NARCBSI
2. DT2 Salvatore Desantis	04361	897333	NARCBSI
3. DT3 Jennifer Childs	02022	929887	NARCBSI
4. DT3 Lawrence Cognato	00116	932475	NARCBSI
5. DT3 Brendan Obrien	06356	922883	NARCBSI

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer pointed his gun at § 87(2)(b)	
B. DT3 David Luppino	Force: Detective David Luppino used physical force against § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D. DT3 David Luppino	Abuse: Detective David Luppino searched § 87(2)(b)	
E. An officer	Discourtesy: An officer spoke obscenely to § 87(2)(b)	
F. SGT Andrew Hillery	Abuse: Sergeant Andrew Hillery supervised the search of the car in which § 87(2)(b) was an occupant.	

Case Summary

On June 11, 2010, § 87(2)(b) filed a complaint with the CCRB via phone (encl. 3A-B).

On June 4, 2010, around 6:50 p.m., § 87(2)(b) and his friend, § 87(2)(b) (last name unknown), were pulled over at Narrows Road North and Neckar Avenue in Staten Island. § 87(2)(b) was arrested for § 87(2)(b)

§ 87(2)(b). § 87(2)(b) was not arrested or issued a summons. The following allegations resulted from the officers' actions.

- **Allegation A – Force: An officer pointed his gun at § 87(2)(b)** § 87(2)(g)
- **Allegation B – Force: Detective David Luppino used physical force against § 87(2)(b)**
- **Allegation C – Force: Officers used physical force against § 87(2)(b)** § 87(2)(g)
- **Allegation D – Abuse: Detective David Luppino searched § 87(2)(b)** § 87(2)(g)
- **Allegation E – Abuse: An officer spoke obscenely to § 87(2)(b)** § 87(2)(g)
- **Allegation F – Abuse: Sergeant Andrew Hillery supervised the search of the car in which § 87(2)(b) was an occupant.** § 87(2)(g)

§ 87(2)(b) alleged the Detective Luppino stuck his finger up his rectum. This allegation was referred to IAB.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

On June 18, 2010, § 87(2)(b) was interviewed at the CCRB (encl. 4A-F). It is important to note that § 87(2)(b) informed the CCRB that he would be unable to recognize any of the officers in a photo array. Although § 87(2)(b) was able to describe each officer in terms of weight, height, age and eye color, his descriptions were, at times, inconsistent. For example, in his initial complaint, § 87(2)(b) stated that the female officer on scene had blonde hair. During his interview, he stated that she had black hair. He also stated that the officer, who put his hand down his pants, had blue eyes and was inside a blue vehicle, but the officer who admitted to this action has brown eyes and was driving a white vehicle.

During his interview, § 87(2)(b) was shown an NYPD photo of his arresting officer, Detective David Luppino. § 87(2)(b) recognized Detective Luppino, but was unable to confirm if Detective Luppino played the role of PO1, PO2, PO4 (these officers are discussed below) or of

another officer on scene. Again, although § 87(2)(b) was able to describe PO1, PO2 and PO4 in his interview, he was unable to recognize Detective Luppino and thought that he could have played the role of any of the officers.

Also during his interview, § 87(2)(b) explained that although he said that PO1 conducted Action 1 and Action 2, it was possible that it PO1 actually only conducted Action 1 while PO2 or PO4 conducted Action 2, for example. In sum, § 87(2)(b) explained that he had some confusion regarding the role of each officer in the incident. § 87(2)(b) also had confusion regarding the chronology of events, which is noted throughout the interview.

On June 5, 2010, around 6:50 p.m., § 87(2)(b) picked up his friend § 87(2)(b) (last name unknown), a Hispanic male, from his apartment building at § 87(2)(b) in Staten Island. § 87(2)(b)'s vehicle, which is a cream, 1993 Affinity Q45, is registered to his friend, § 87(2)(b). § 87(2)(b) insured the vehicle for § 87(2)(b) but the vehicle belongs to § 87(2)(b). § 87(2)(b) had 19 small baggies in his rectum before he picked up § 87(2)(b) because that is where he keeps it. § 87(2)(b) is paralyzed from the waist down and uses a wheelchair, so § 87(2)(b) placed his wheelchair in the backseat. In the trunk, § 87(2)(b) had a baby's seat, some sweaters and some hats.

§ 87(2)(b) and § 87(2)(b) were on their way to Staten Island University Hospital. After driving for about 15 minutes, § 87(2)(b) stopped at a red light on Tompkins Road and Narrows Road. He was in the middle lane with his right blinker on. Drivers cannot turn right when they are in the middle lane, but § 87(2)(b) was going to pull into the right lane and then make a right turn immediately after this. An unmarked white police van drove past § 87(2)(b) on his left side, drove through the red light and parked on Tompkins Road.

§ 87(2)(b) turned right onto Narrows Road from the middle lane. After driving two blocks he noticed an unmarked blue charger with its lights on driving on the right side of him and an unmarked silver or gray minivan with its lights on driving on the left side of him. § 87(2)(b) did not stop immediately because there was nowhere to pull over. He drove two blocks, turned right onto Neckar Avenue and then pulled over on the left side of the street. The blue charger pulled to the right of him and the silver mini van pulled to the left of him. An unmarked blue police vehicle pulled in front of him and one or two other vehicles also pulled over, boxing him in.

The passenger in the front seat of the blue charger, PO1, jumped out of the vehicle with his gun pointed directly at § 87(2)(b). The driver of the silver/gray minivan, PO2, ran out of his vehicle as well. § 87(2)(b) described PO1 as a white male, 5'6"-5'7" tall, 220-240lbs, in his mid thirties, blue eyes, black hair and wearing a blue t-shirt with silver beads. § 87(2)(b) described PO2 as a white male with black hair, 6'1"-6'2" tall, 160-180lbs, in his mid-twenties to early-thirties, wearing shorts and a button up white and blue stripped shirt that was open with a white t-shirt underneath.

PO2 pulled § 87(2)(b) out of the vehicle.¹ PO2 stated that § 87(2)(b) had fled the scene, but § 87(2)(b) did not know what he was talking about. An officer § 87(2)(b) did not know which one) asked § 87(2)(b) to get out of the vehicle, but § 87(2)(b) explained that he was paralyzed. § 87(2)(b)

¹ At first § 87(2)(b) stated that he was immediately handcuffed at this point; later in his interview he stated that he was handcuffed after force was used against him.

§ 87(2)(b) later heard from § 87(2)(b) that the officers searched him while he was sitting in the vehicle, but § 87(2)(b) did not witness this.

PO1 patted § 87(2)(b) down over his entire body, went into all his two front and two back jeans pockets, lifted up § 87(2)(b)'s shirt and lifted up his jeans. He did not find anything. Then PO2 conducted the exact same search and did not find anything. Then PO3 and PO4 conducted the same search. § 87(2)(b) described PO3 as a white female, 5'5"-5'6" tall, 140lbs, long, brown/black hair carrying pink handcuffs. He described PO4 as a white male, 6'6" tall (the tallest officer on scene), more than 200 lbs, age 30-34 with black hair and blue eyes. PO4 did not go into § 87(2)(b)'s pockets, but just patted him down. These two officers did not find anything on § 87(2)(b).

PO1 returned to § 87(2)(b). An officer § 87(2)(b) did not know which one) kicked in between § 87(2)(b)'s legs and told him to open them wider. § 87(2)(b) told the officers that he was too short and that he would fall if he opened his legs any further. PO1 handcuffed § 87(2)(b). § 87(2)(b) told the officers that the handcuffs were too tight and moved his arms a little to let them know. The officers told § 87(2)(b) that he was resisting.

PO2 told § 87(2)(b) "Oh, you want to be a dickhead, I'm going to show you what a dickhead feels like." PO2 also called § 87(2)(b) "scum" and a "lowlife." PO2 punched § 87(2)(b) in the stomach, causing § 87(2)(b) to lean forward in pain. At this time, PO1 stuck his finger down § 87(2)(b)'s pants and up his rectum. He did not unbuckle § 87(2)(b)'s pants but was able to get into pants anyway. The officers laid § 87(2)(b) face forward on the ground. When § 87(2)(b) was brought to the ground, his shirt ripped. PO1 found the 19 bags of crack cocaine in § 87(2)(b)'s rectum.²

At the same time, while these officers were searching § 87(2)(b) they also searched his vehicle. They went into his glove compartment and took everything out of his trunk. § 87(2)(b) specifically saw PO1, PO2 and PO3 inside his vehicle, touching things and taking things out of his trunk.³

There were about five police cars and about ten officers on scene. The officers not involved in the search of § 87(2)(b) or his vehicle were standing around on "lookout." No witnesses were outside at this time. § 87(2)(b) was arrested for criminal possession of a controlled substance. § 87(2)(b) was not arrested nor issued a summons.

At the precinct, § 87(2)(b) told the officers that he had marijuana in his sock, so the officers confiscated it. § 87(2)(b) sustained a cut to his arm, scratches to his wrists and pain to his stomach for which he did not go to the hospital.

The officers left § 87(2)(b)'s vehicle on scene with its lights on. § 87(2)(b) was told that his vehicle was going to be impounded, but his mother picked it up from the scene later that day.

² At first § 87(2)(b) stated that he was tackled to the ground and then PO1 stuck his finger up his rectum, but later on he stated that PO1 first stuck his finger up his rectum and then laid him on the ground. Also, at first § 87(2)(b) stated that he was punched on the ground, but then he stated that he was punched while he was still standing.

³ At first he stated that five to six officers searched his vehicle, but then when questioned about the search in particular, he saw only PO1, PO2 and PO3 search the vehicle.

Civilians not Interviewed

§ 87(2)(b) stated that § 87(2)(b) did not have a phone number; § 87(2)(b) also declined to provide § 87(2)(b) address. § 87(2)(b) stated that § 87(2)(b) might not wish to make a statement regarding the incident, and, if he did, he might not be honest. § 87(2)(b) explained that his reasoning for his speculations regarding § 87(2)(b) was because, where he is from, it is best to stay out of the affairs of the police. The investigation was unable to contact § 87(2)(b) without having his last name or his contact information.

NYPD Statements

Subject Officer: DETECTIVE DAVID LUPPINO

- *Detective Luppino is a white male, 6'2" tall, 250lbs, age § 87(2)(b) with brown hair and brown eyes.*
- *On June 4, 2010, Detective Luppino worked from 3:27 p.m. to 12:00 a.m. the following day, was assigned to team #1, worked with Detective John Brooks, dressed in plainclothes and was assigned to an unmarked white Chrysler police vehicle (#42915) as the operator.*

Memo Book

Detective Luppino had the following memo book entry regarding the incident: At 7:25 p.m., one arrest at the corner of Neckar Avenue and Narrows Road North.

CCRB Testimony

On July 23, 2010, Detective Luppino was interviewed at the CCRB (encl. 5A-F). Detective Luppino and Detective Brooks were preparing to cross the intersection at Reynolds Street and Hylan Boulevard when they observed a white vehicle driving south on Hylan Boulevard in a reckless manner. Reynolds Street moves into three lanes at one point and the white vehicle drove around traffic very quickly over these markings and endangered other drivers.

Detective Luppino put his lights on and followed the white vehicle for about one mile. At Narrows Road North, the driver of the white vehicle, later identified as § 87(2)(b) made a right turn from the middle lane, causing danger to traffic and to pedestrians trying to cross the street. § 87(2)(b) swerved his vehicle so that he would not hit anybody. Initially, the officers were going to pull over § 87(2)(b) and issue him a traffic summons. However, at this point, because § 87(2)(b) was uncooperative, he was now under arrest for reckless driving.

Detective Luppino contacted his field team via radio and they responded immediately. § 87(2)(b) turned right onto Neckar Avenue and made an abrupt stop on the left side. Detective Luppino's field team immediately boxed him in. Members of Detective Luppino's field team, all identified via investigation, included Sergeant Andrew Hillary, Detective Salvatore Desantis, Detective Brendan O'Brien, Detective Jennifer Childs and Detective Lawrence Cognato.

Detective Luppino and Detective Brooks jumped out of their vehicle and ran towards § 87(2)(b). They did not have their guns out. No other officer had his or her gun out. Sergeant Hillary and Detective Desantis also approached § 87(2)(b) and assisted in handcuffing him. § 87(2)(b) resisted the arrest by tensing up his arms and kicking his legs. All four of the detectives and § 87(2)(b) fell to the ground as one unit. During the struggle, Detective Luppino did not punch § 87(2)(b). He did not know what actions his fellow officers took. Detective Luppino never referred to § 87(2)(b) as a "dickhead," "scum" or a "lowlife." No other officer made these comments.

While § 87(2)(b) was struggling with the officers, he tried to stuff a black plastic baggie down the back of his pants. Detective Luppino could not see what was inside of the bag, but, based on his training as a detective, when a defendant stuffs something down his pants, it is likely that it is contraband. Detective Luppino tried to grab § 87(2)(b)'s arm and take the baggie out of his pants, but § 87(2)(b) resisted. After Detective Luppino was finally able to handcuff § 87(2)(b), he immediately placed his hand underneath the back part of § 87(2)(b)'s pants and pulled out the bag. § 87(2)(b) was not able to stuff the bag far down his pants and Detective did not reach far down into § 87(2)(b)'s pants. Detective Luppino did not touch § 87(2)(b)'s private parts and § 87(2)(b)'s private parts were never exposed.

Detective Luppino then searched § 87(2)(b) thoroughly; specifically he searched all of § 87(2)(b)'s pockets and over his pants. Detective Luppino did not go underneath § 87(2)(b)'s undergarments. Detective Luppino never strip-searched § 87(2)(b) on scene or at the precinct. Detective Luppino did not know if any other detective searched § 87(2)(b) on scene. After being in handcuffs, § 87(2)(b) continued to resist by moving around, so one of the detectives had to hold onto his arms.

The male in the passenger seat of the vehicle, identified as § 87(2)(b) via investigation, had a disability and used a wheelchair. § 87(2)(b) informed Detective Luppino that his wheelchair was in the trunk and Detective Luppino asked his permission to get the wheelchair so that § 87(2)(b) could be taken out of the vehicle. § 87(2)(b) agreed and Detective Luppino opened the trunk, got the wheelchair out and brought it to § 87(2)(b). Detective Luppino did not take any other items out of the trunk besides the wheelchair. He did not search the trunk.

Once § 87(2)(b) was out of the vehicle, Detective Luppino conducted a search of the front part of the vehicle and underneath the front seats. Detective Luppino did not go into the glove compartment. Detective Luppino did not know if any other officer conducted a search of the trunk or the glove compartment. No drugs were found in the vehicle.

Detective Luppino did not know if § 87(2)(b) was frisked or searched. He did not conduct a frisk or search of § 87(2)(b). The officers recovered 19 small bags of crack cocaine inside the black baggie that § 87(2)(b) had been trying to stuff down his pants. Later on, at the precinct, § 87(2)(b) told the officers that he had marijuana in his sock, so they confiscated this as well.

Subject Officer: DETECTIVE JOHN BROOKS

- *Detective Brooks is a white male, 6'4" tall, 230lbs, age § 87(2)(b) with black hair and brown eyes.*
- *On June 4, 2010, Detective Brooks worked from 3:27 p.m. to 12:00 a.m., was assigned to the chase car as the recorder, worked with Detective Luppino and dressed in plainclothes.*

Memo Book

Detective Brooks did not have any entries in his memo book regarding the incident.

CCRB Testimony

On August 19, 2010, Detective Brooks was interviewed at the CCRB (encl. 6A-D). § 87(2)(g) He added the following information.

Detective Brooks assisted Detective Luppino in gaining control over § 87(2)(b). He did not punch him but tried to grab his arms. Detective Brooks did not search § 87(2)(b). Detective Brooks never searched the vehicle. Detective Brooks did not get § 87(2)(b) wheelchair out of the trunk but assisted § 87(2)(b) in getting into the wheelchair.

Subject Officer: SERGEANT ANDREW HILLARY

- *Sergeant Hillary is a white male, 5'9" tall, age § 87(2)(b) with blonde hair and hazel eyes.*
- *On June 4, 2010, Sergeant Hillary worked from 3:25 p.m. to 12:00 a.m. the following day, was assigned as the team leader, worked with Detective Desantis (driver) and Detective O'Brien (in the back seat), dressed in plainclothes and was in an unmarked vehicle (he did not remember the color).*

Memo Book

Sergeant Hillary had the following memo book entry regarding the incident: At 7:25 p.m., 92C (arrest) of § 87(2)(b) at Neckar Avenue and Narrows Road north.

CCRB Testimony

On August 5, 2010, Sergeant Andrew Hillary was interviewed at the CCRB (encl. 7A-D).

§ 87(2)(g) He added the following information.

Sergeant Hillary's vehicle pulled up behind § 87(2)(b) and his prisoner van came up behind him. The officers tried to sandwich § 87(2)(b) in so that he would slow down. At Neckar Avenue, § 87(2)(b) cut a quick right; Detective Desantis anticipated this and also cut the right in this area and both vehicles stopped. Sergeant Hillary and his officers got out of their vehicle. § 87(2)(b) jumped out of the vehicle and started to run towards Narrows Road North. § 87(2)(b) only got a couple of feet away from his vehicle because by this point, Detective Luppino had pulled up and § 87(2)(b) literally ran into him.

Sergeant Hillary did not draw his gun when he approached § 87(2)(b) no other officer had their gun drawn. Detective Luppino and Sergeant Hillary were the ones who apprehended and gained control over § 87(2)(b). Sergeant Hillary did not know if any other detective assisted them. They did not punch him.

Sergeant Hillary conducted a search of the front passenger seats. He did not remember if he went into the glove compartment. He believed that he was the only officer who conducted the car search.

Subject Officer: DETECTIVE SALVATORE DESANTIS

- *Detective Desantis is a white male, 5'9" tall, 210lbs, age § 87(2)(b) with brown hair and brown eyes.*
- *On June 4, 2010, Detective Desantis worked from 3:27 p.m. to 12:00 a.m. the following day, was assigned to Team 1, worked with Detective O'Brien and Sergeant Hillary, dressed in plainclothes and was assigned to vehicle #44943 (either a grey dodge or tan Honda) as the front passenger (Officer O'Brien was operator and Sergeant Hillary sat in the backseat).*

Memo Book

Detective Desantis had the following memo book entry regarding the incident: Arrest at Neckar Avenue and Narrows Road North.

CCRB Testimony

On August 21, 2010, Detective Desantis was interviewed at the CCRB (encl. 8A-G). § 87(2)(g) He added the following information.

Detective Luppino and Detective Brooks approached the driver's side of the car and brought § 87(2)(b) to the back of the car. No officer had his or her gun out. Detective Desantis approached the passenger side of the car and recognized § 87(2)(b) as an individual he had arrested a couple months previous for narcotics. Detective Childs pulled § 87(2)(b) wheelchair out of the trunk and a couple male officers assisted § 87(2)(b) in getting into his wheelchair. Detective Desantis did not see Detective Childs search any other part of the trunk and did not see any other officer search § 87(2)(b)'s vehicle. Detective Desantis did not search the vehicle.

Subject Officer: DETECTIVE BRENDAN OBRIEN

- Detective O'Brien is a white male, 6'2" tall, age § 87(2)(b) with brown hair and blue eyes.
- On June 4, 2010, Detective O'Brien worked from 3:27 p.m. to 12:00 a.m., was assigned to the Chase Car (he did not remember the color) as the operator, worked with Detective Desantis and Sergeant Hillery (he did not remember where they were sitting).

Memo Book

Detective O'Brien had the following memo book entry regarding the incident: At 7:25 p.m., one under at Neckar Avenue and Narrows Road North.

CCRB Testimony

On September 9, 2010, Detective O'Brien was interviewed at the CCRB (encl. 9A-D). § 87(2)(g) He added the following information.

§ 87(2)(b) got out and started running and ran almost directly into Detective Luppino. Detective O'Brien ran to the passenger side. No officer had his gun out. Detective O'Brien recognized § 87(2)(b) as someone he had previously locked up for selling narcotics so Detective O'Brien immediately frisked him for his safety. Detective O'Brien did not witness the struggle between § 87(2)(b) and the detectives.

Detective O'Brien did not conduct a search of the vehicle. He did not see any other officer search the vehicle but he assumed that the vehicle was searched. Detective O'Brien did open the trunk to get § 87(2)(b) his wheelchair. When Detective O'Brien opened the trunk, he did not see anything suspicious and did not search any part of the trunk.

Subject Officer: DETECTIVE JENNIFER CHILDS

- Detective Childs is a white female, 5'4" tall, 125lbs, age § 87(2)(b) with brown hair and hazel eyes.
- On June 4, 2010, Detective Childs worked from 3:27 p.m. to 12:00 a.m. the following day, was assigned to the prisoner van, worked with Detective Lawrence Cognato.

Memo Book

Detective Childs had the following memo book entry regarding the incident: At 7:25 p.m., one under at Nectar Avenue and Narrows Road North by Detective Luppino.

CCRB Testimony

On August 3, 2010, Detective Jennifer Childs was interviewed at the CCRB (encl. 10A-D).

§ 87(2)(g) She added the following information.

Detective Childs stood at the driver's side of the vehicle while Detective Cognato stood at the passenger side. Detective Childs never searched § 87(2)(b)'s vehicle. § 87(2)(b) had a wheelchair in the trunk of the car, so Detective Luppino and Detective Childs got it out of the trunk and helped § 87(2)(b) into it. Detective Childs did not take out anything else from the trunk and did not search any part of the vehicle.

Subject Officer: DETECTIVE LAWRENCE COGNATO

- *Detective Cognato is a white male, 5'10" tall, 185lbs, age § 87(2)(b) with brown eyes.*
- *On June 4, 2010, Detective Cognato worked from 3:27 p.m. to 12:00 a.m. the following day, was assigned to the Prisoner Van as the operator (black van), worked with Detective Childs, and dressed in plainclothes.*

Memo Book

Detective Cognato had the following entry in his memo book regarding the incident: At 7:25 p.m., one under at Narrows Road North and Neckar Avenue.

CCRB Testimony

On September 1, 2010, Detective Cognato was interviewed at the CCRB (encl. 11A-F). § 87(2)(g) He added the following information.

At first Detective Cognato and Detective Childs missed the intersection so they went around the block. When they got on scene, the field team (Detective Cognato did not know which members) was struggling with § 87(2)(b) and Detective Cognato went over to assist them. § 87(2)(b) never punched anyone and no officer punched him.

NYPD Documents

Arrest Report (encl. 12A-B)

§ 87(2)(b)'s arrest report indicates that he was observed operating a motor vehicle weaving in and out of traffic at a high rate of speed forcing other vehicles and pedestrians to move out of the way. § 87(2)(b) was in possession of a quantity of marijuana and a controlled substance. § 87(2)(b) did fight with officers and refused to be restrained and handcuffed by flailing his arms and kicking his legs.

Property Vouchers (encl. 15A-C)

§ 87(2)(b)'s property vouchers confirm that cocaine and marijuana were found on his person.

Status of Civil Proceedings (encl. 17A)

As of September 13, 2010, § 87(2)(b) has not filed a notice of claim in regard to the incident.

Arrest Disposition

According to OCA, there is not yet a disposition regarding § 87(2)(b)'s arrest. § 87(2)(b) is scheduled to appear at Richmond Criminal Court on § 87(2)(b).

Civilian Criminal History (encl. 18A-C)

§ 87(2)(b)

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Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2E).

Subject Officers CCRB History

- Detective Luppino has been a member of the service for 16 years and there are two substantiated allegations against him. In case #9503469, there is a force allegation for which Detective Luppino received a command discipline. § 87(4-b), § 87(2)(g)

(encl. 2A-C)

- Sergeant Hillery has been a member of the service for 10 years and there is one substantiated allegation against him. § 87(4-b), § 87(2)(g)

(encl. 2D)

Conclusion

Identification of Subject Officers

- Detective Luppino admitted to searching § 87(2)(b)
- Detective Luppino and Sergeant Hillery admitted to using physical force against § 87(2)(b)
- Detective Luppino, Sergeant Hillery and Detective Childs admitted to entering § 87(2)(b)'s vehicle.

Allegations not Pled

§ 87(2)(b) stated that § 87(2)(b) informed him he was frisked and searched. This is hearsay and will not be pled. § 87(2)(b) alleged that multiple officers searched him. This is incident to arrest and will not be pled.

Investigative Findings and Recommendations

Allegation A – Force: An officer pointed his gun at § 87(2)(b)

Allegation E – Abuse: An officer spoke obscenely to § 87(2)(b)

§ 87(2)(b) alleged that an officer, PO1, pointed his gun at him. He also alleged that another officer, PO2, spoke obscenely to him. § 87(2)(b) described PO1 as a white male, 5'6"-5'7" tall, 220-240lbs, in his mid thirties, blue eyes, black hair and wearing a blue t-shirt with silver beads. § 87(2)(b) described PO2 as a white male with black hair, 6'1"-6'2" tall, 160-180lbs, in his mid-twenties to early-thirties. The investigation can place Sergeant Hillery and Detective Luppino on scene at the beginning of the incident, but neither officer fits the description provided by § 87(2)(b). Sergeant Hillery is 5'9" tall, age § 87(2)(b) with blonde hair and hazel eyes and Detective Luppino is a white male, 6'2" tall, 250lbs, age § 87(2)(b) with brown hair and brown eyes.

As discussed at the beginning of § 87(2)(b)'s interview summary, § 87(2)(b) informed the CCRB that he would have trouble recognizing the officers who were on scene and that he had

some confusion regarding the role of each officer in the incident. For example, § 87(2)(b) alleged that the officer who pointed his gun at him and who went down his pants had blue eyes and was driving a blue vehicle, but Detective Luppino, who admitted to putting his hand down § 87(2)(b)'s pants but not to pointing his gun, has brown eyes and was driving a white vehicle. It is possible that § 87(2)(b) was accurate in his memory that Detective Luppino put his hands down his pants, but, based on his own confusion, the gun pointed allegation is not necessarily pled to Detective Luppino.

During his interview, § 87(2)(b) was shown an NYPD photo of his arresting officer, Detective David Luppino. § 87(2)(b) recognized Detective Luppino, but he was unable to confirm if Detective Luppino played the role of PO1, PO2, PO4 or of another officer on scene. Again, although, § 87(2)(b) was able to describe PO1, PO2 and PO4 in his interview, he was unable to recognize Detective Luppino and thought that he could have been any one of those officers.

Also during his interview, § 87(2)(b) explained that although he said that PO1 conducted Action 1 and Action 2, it was possible that it PO1 actually only conducted Action 1 while PO4 conducted Action 2. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Force: Detective David Luppino used physical force against § 87(2)(b)

Allegation C – Force: Officers used physical force against § 87(2)(b)

§ 87(2)(b) stated that he moved around when in handcuffs and subsequently one of the detectives punched him in the stomach and then brought him to the ground along with other officers § 87(2)(b) was not able to solidly identify. Detective Luppino, Sergeant Hillery, Detective Brooks and Detective Desantis all admitted to grabbing § 87(2)(b) and bringing him to the ground. § 87(2)(b) did not sustain any serious injuries and was not taken to the hospital. The NYPD Patrol Guide, section 203-11, states that officers should only use the amount of force necessary to overcome resistance. § 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse: Detective David Luppino searched § 87(2)(b)

§ 87(2)(b) alleged that Detective Luppino placed his finger up his rectum to obtain the cocaine. § 87(2)(b) stated that his cocaine was in his rectum because that is where he keeps it. Detective Luppino, however, testified that § 87(2)(b) was trying to stuff a black baggie down his pants while the detectives were trying to handcuff him. Detective Luppino immediately placed his hand down the back of § 87(2)(b)'s pants and removed the baggie, which contained the cocaine. Detective Luppino testified that he did not have to reach far down § 87(2)(b)'s pants and that he never touched or exposed § 87(2)(b)'s private parts. § 87(2)(g)

§ 87(2)(g)

Allegation F – Abuse: Sergeant Andrew Hillery supervised the search of the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) alleged that three detectives (two males and one female) searched his vehicle, including the trunk. Sergeant Hillery and Detective Luppino admitted to searching the front passenger seat area. They also stated, along with Detective Childs, that they opened the trunk in order to take out § 87(2)(b) wheelchair.

In People v. Belton 50 N.Y.2d 447 (1980) (encl. 1A-P), officers may conduct a limited search of the vehicle incident to arrest. § 87(2)(g)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Team: _____ :

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date